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Attorney for Defendant
MARCOS ENRIQUE GARCIA

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

| | | |
|---------------------------|---|---|
| UNITED STATES OF AMERICA, |) | No. Cr. S 03-549 EJG |
| |) | |
| Plaintiff, |) | STIPULATED MOTION TO REDUCE |
| |) | SENTENCE PURSUANT TO 18 U.S.C. |
| v. |) | \$ 3582(c)(2) and [lodged] ORDER |
| |) | |
| MARCOS ENRIQUE GARCIA, |) | <u>RETROACTIVE CRACK COCAINE</u> |
| |) | <u>REDUCTION CASE</u> |
| Defendant. |) | |
| |) | |
| _____ |) | |

Defendant, MARCOS ENRIQUE GARCIA, by and through his attorney,
Assistant Federal Defender David M. Porter, and plaintiff, UNITED
STATES OF AMERICA, by and through its counsel, Assistant U.S. Attorney
RICHARD J. BENDER, hereby stipulate as follows:

1. Pursuant to 18 U.S.C. § 3582(c)(2), this court may reduce the
term of imprisonment in the case of a defendant who has been sentenced
to a term of imprisonment based on a sentencing range that has
subsequently been lowered by the Sentencing Commission pursuant to 28
U.S.C. § 994(o);

2. On June 10, 2005, this Court sentenced Mr. Garcia to a term
of imprisonment of 84 months;

3. The sentencing range applicable to Mr. Garcia was

subsequently lowered by the United States Sentencing Commission in Amendment 706 by two levels;

4. Accordingly, Mr. Garcia's adjusted offense level has been reduced from 33 to 31, and a sentence at the low end of the new guideline range with a departure comparable to the 38% reduction he received at the original sentencing would be 67 months;

5. Accordingly, the parties request the court enter the order lodged herewith reducing Mr. Garcia's term of imprisonment to an aggregate term of 67 months on all counts.

Dated: May 7, 2008

Respectfully submitted,

McGREGOR SCOTT
United States Attorney

DANIEL J. BRODERICK
Federal Defender

/s/ Richard Bender

/s/ David M. Porter

RICHARD J. BENDER
Assistant U.S. Attorney

DAVID M. PORTER
Assistant Federal Defender

Attorney for Plaintiff
UNITED STATES OF AMERICA

Attorney for Movant
MARCOS ENRIQUE GARCIA

ORDER

This matter came before the Court on the stipulated motion of the defendant for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2).

The parties agree, and the Court finds, that Mr. Garcia is entitled to the benefit of the retroactive amendment reducing crack cocaine penalties, which reduces the applicable base offense level from 33 to 31. A sentence at the low end of the new guideline range with a departure comparable to the 38% reduction he received at the original sentencing would be 67 months.

IT IS HEREBY ORDERED that the term of imprisonment originally imposed is reduced to an aggregate term of 67 months on all counts.

STIPULATED MOTION AND ORDER TO REDUCE SENTENCE

1 IT IS FURTHER ORDERED that all other terms and provisions of the
2 original judgment remain in effect.

3 Unless otherwise ordered, Mr. Garcia shall report to the United
4 States Probation office closest to the release destination within
5 seventy-two hours after his release.

6 Dated: May 13, 2008

7 _____ /s/ Edward J. Garcia
8 HONORABLE EDWARD J. GARCIA
9 United States District Judge
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